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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/689,659	10/22/2003	Tsutomu Tanoi	000409-066	6489

21839 7590 07/11/2005

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EXAMINER

REDMAN, JERRY E

ART UNIT	PAPER NUMBER
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3634

DATE MAILED: 07/11/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/689,659

Applicant(s)

TANOI ET AL.

Examiner

Jerry Redman

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 22 October 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1 and 2 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1 and 2 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 2/23/04.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

Claims 1-2 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In claim 1, line 1, it is not readily apparent to the Examiner if the applicant is claiming a control device or a control device in combination with an opening/closing member. Throughout the claims, the applicant clearly and positively sets forth the "opening/closing member". If the applicant intends on claiming the combination then the applicant should clearly and positively recite the opening/closing member in the preamble. In claim 1, line 2, the applicant recites "an opening/closing member". Is this the same opening/closing member that's recited in claim 1, line 1 or are there two different opening/closing members? There is a lack of antecedent basis for the following: In claim 1, line 7, "the resistance force", line 12, "the operation switch", line 13, "the control", line 14, "the operation switch", line 15, "the control"; In claim 2, line 6, "the operation switch". In claim 2, lines 4-6, the phraseology "the opening/closing member is operated at a manual mode for closing the opening/closing member by keep pushing the operation switch" is not readily understood by the Examiner.

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

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A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

As best understood, claims 1 and 2 are further rejected under 35 U.S.C. 102(b) as being anticipated by Kawai et al. (4,561,691). Kawai et al. (4,561,691) disclose a control device comprising an opening/closing member (1), an opening portion (3), an actuator (10, 11, 81, and 82) for moving the opening/closing member (1), an operational switch (50), a first and a second larger value (Figure 14, columns 7, 8, and 9) which detects an object within the path of the opening/closing member (1) thereby stopping and/or reversing the opening/closing member (1) based on a predetermined amount of time.


The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. U.S. patent to Okamoto discloses a control device operating similar to that of the applicant's invention. U.S. patent to Kawanobe et al. disclose a control device operating similar to that of the applicant's invention. U.S. patent to Mitsuda discloses a control device operating similar to that of the applicant's invention. U.S. patent application publication to Yokomori discloses a control device operating similar to that of the applicant's invention. U.S. patent to Petri et al. disclose a control device operating similar to that of the applicant's invention. U.S. patent to Huyer discloses a control device operating similar to that of the applicant's invention.

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Any inquiry concerning this communication should be directed to Jerry Redman  
at telephone number 571-272-6835.



**Jerry Redman**  
**Primary Examiner**